

## **REMARKS**

This Amendment is submitted in response to the Office Action dated March 15, 2010, having a shortened statutory period set to expire June 15, 2010, extended to July 15, 2010. Applicant has amended claims 1, 4, 11, 25, 30, 44-46, 63, 84, 127 and 176 without prejudice or disclaimer to the subject matter recited therein. Applicant has added new claim 188. Claims 3, 21-24, 33-34, 47-62, 70-83, 92-126, 139-175 and 178-187 are cancelled. Reconsideration of the present case is earnestly requested in light of the following remarks.

### **I. Provisional Double Patenting Rejections**

Claims 1-2, 4-20, 23-69, 84-171 and 176-178 were provisionally rejected on the ground of non-statutory obvious-type double patenting as being unpatentable over various claims of co-pending Application Ser. No. 11/391,631. Applicant believes that no action is required at this time, since the Examiner states: "This is a provisional obvious-type double patenting rejection because the conflicting claims have not in fact been patented." (emphasis in original).

### **II. Restrictions by Original Presentation**

Claims 11-20, 23-24, 184, 185, 92-100, 178-185 and 187 are directed to an invention that is independent or distinct. Accordingly, Applicants have herein either amended those claims to be directed to the invention originally claimed or have canceled the restricted claims from the present application.

### **III. Claim Rejections Under 35 U.S.C. § 103**

Claims 1, 25, 30, 33, 43, 46, 50, 54, 55, 59, 60-63, 84, 101, 111, 127, 139, 151, 169, 170, 171, 176, 177 and 186 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Singer et al.* (US 5,485,163). Claims 44, 45, 47-49 and 51-53 were rejected under 35 USC §103(a) as being unpatentable over *Singer* in view of *Muffat et al.* (European Cooperation on Dual Mode Route Guidance-Perspectives for Advanced Research Partners). Claims 56-58 were rejected under 35 USC §103(a) as being unpatentable over *Singer*, in view of what was known in the art (Official Notice).

Claim 1 in the present application recites, *inter alia*:

“transmitting, via the network and access point, content to the computing device, wherein the content comprises a message to the user from a business promoting goods or services

of the business relating to the geographic location of the computing device and wherein the message is selected based on the identification information and the third party information, wherein the business is not the service provider or the user.”

Applicant respectfully submits that *Singer* does not describe or render obvious these features. On page 8 of the present Office Action, it is argued that *Singer* discloses transmitting information to a portable computing device through an access point in Figure 2, step 72 and at col. 2, lines 39-42. Step 72 in Figure 2 describes that the “HLR” forwards “location information to subscriber” and at col. 2 [3], lines 39-42 and at col. 3, ln. 41 that content of the information may be associated with “proximate place names (buildings).” Thus, *Singer* teaches that upon receipt of the location information at the HLR 36, the location information is forwarded in the requested format (stored in the PLU service parameters, which includes subscriber preferences), to the subscriber (see col. 4, lns. 33-36). *Singer* explains the content of the location information sent to the computing device such as a mobile unit 6 is transmitted based on the subscriber preference information contained in the HLR, which indicates the format or the content of information to be included as part of the message transmitted to the subscriber (see col. 4, lns. 33-47) (the “desired format (e.g., geographic location, proximate place names (buildings), relative position and the like).” col. 3, lns. 34-42). The only information transmitted by the system of *Singer* is “**location** information” relaying the determined location of the PLU 4 (col. 2, lns. 44-56; col. 3, lns. 1-13) such as “place names,” or other identifying landmarks for the relative location of the PLU. Still further, there is nothing within *Singer* to suggest that the location information that was transmitted to the subscriber was “selected based on the identification information and the third party information.” This is significant, in that *Singer* is teaching using **identification** information to select and deliver **location** information to the mobile device, while the preferred embodiments of the present invention use **identification and location** information to deliver **other content** to the mobile device, in this case business promotional information. In particular, *Singer* fails to suggest transmitting “**a message to the user [of the computing device] from a business promoting goods or services of the business relating to the geographic location of the computing device and wherein the message is selected based on the identification information and the third party information,**” as is recited in exemplary independent Claim 1 in the present application. It is apparent the present invention is not anticipated or obvious in view of *Singer*.

Further, Claim 1 recites **“wherein the message is selected based on the identification information and the third party information.”** Singer fails to teach selecting a message from a business **“selected”** based on identification information of the user and **“third party information.”** While the network service provider does transmit the “place names” proximate to the PLU, this information in no way could be considered a “message from a business.” Further, “proximate place names (buildings)” may, in the first instance, have nothing to do with any business contained within that building, and in the second instance one skilled in the art would consider “place names” to merely represent landmarks within a geographic area of the PLU, as described in the location information taught by *Singer*, and would never be considered a “message” from a business.

Further, Claim 1 recites **“wherein the business is not the service provider or the user.”** All of the location information transmitted to the subscriber’s device in the system of *Singer* is determined and transmitted by the network service provider managing the HLR, VLR and BSC (see col.s 2-4). Clearly, the location information delivered to the subscriber in *Singer* was in no way a message **“to the user from a business”** that was **“not the service provider,”** since the network service provider is the party delivering the information to the subscriber. Consequently, *Singer* does not show or suggest where the information is provided by a business that is not the network service provider or the user.

Applicant respectfully submits that Claim 1 is not obvious and is allowable for at least the reasons provided. Applicants respectfully submit that the present invention as claimed in exemplary independent Claim 1 is not anticipated or rendered obvious by *Singer* and that the rejection under §103 should be reconsidered.

In conclusion, Applicants respectfully submit that neither *Singer et al.* nor *Muffat et al.*, nor any other prior art of record, taken individually or in combination, anticipates or renders obvious exemplary independent Claim 1 and the claims dependent thereon in the present application, and that therefore the rejection of those claims under §103 should be withdrawn. For the same reasons as given above with respect to independent Claim 1, Applicants submit that independent Claims 11, 25, 30, 63, 84 and 127, and the claims dependent thereon, are similarly not anticipated or rendered obvious by *Singer et al.*, nor *Muffat et al.*, nor any other prior art of record, taken individually or in combination, and that the rejections of those claims under §103 should also be withdrawn.

#### **IV. Conclusion**

Having now responded to each rejection set forth in the present Office Action, Applicant believes all pending claims are now in condition for allowance and respectfully request such allowance. Applicant invites the Examiner to contact the undersigned at the below listed telephone number if a telephone conference would expedite prosecution of this application.

Respectfully submitted,

/Craig J. Yudell/

Craig J. Yudell  
*Reg. No. 39,083*  
DILLON & YUDELL LLP  
8911 N. Capital of Texas Highway  
Suite 2110  
Austin, Texas 78759  
512.343.6116

ATTORNEY FOR APPLICANT